

Course Outline

COURSE:	LAWS/HIST 3305 A	Crime and State in History
PREREQUISITES:	Third year standing	
TERM:	Fall 2007	
CLASS: Day & Time:	Mondays, 2:30-5:30	
Room:	ME 3235	
INSTRUCTOR:	Professor Barry Wright	
CONTACT: Office:	D594 Loeb	
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Students with disabilities needing academic accommodations in this course are required to contact a coordinator at the Paul Menton Centre to complete the necessary *letters of accommodation*. The student must then make an appointment to discuss their needs with the instructor at least two weeks prior to the first class or ITV test. This is to ensure sufficient time is available to make the necessary accommodation arrangement. Please note the deadline for submitting completed forms to the PMC for formally scheduled exam accommodations is November 9, 2007 for December examinations and March 14, 2008 for April examinations. With regard to accommodations for religious obligations and pregnancy, please see <http://www.carleton.ca/law/accommodations.htm>.

COURSE DESCRIPTION

This course surveys historical changes in the definition of crime and the administration of criminal law. Although the adversarial criminal trial is associated with the medieval origins of the common law, basic elements of our current system of criminal law reflect much more recent transformations in law enforcement, the criminal trial, and punishment. These are associated with the rise of the modern state and attempts to better manage the effects of industrialization, urbanization and colonization. The course focuses on these developments in 18th and 19th century England and on the adoption and modification of the English criminal law and institutions in late 18th and 19th century Canada. Selected issues in criminal law history are also explored, including the uses of criminal law to deal with real and perceived state security threats and the experiences of native peoples and women.

COURSE ORGANIZATION

Lecture and class discussions. Students will be expected to have completed the required readings from the 3305 coursepack for a particular week's topic as specified in the schedule set out on the following pages.

TOPICS AND READINGS

All required readings noted in the schedule below may be found in the 3305 coursepack. The full bibliographical information for the extracted published material is set out at the beginning of the coursepack. Students are advised to start their essay research by consulting these readings and the on-line course bibliography.

SCHEDULE**Lecture 1 Introduction****Lecture 2 Conceptualizing Legal History and Origins of Canada's System**

Please read for this class from the coursepack:

- Wright, "Overview: Historical Perspectives on Criminal Law, Legal Historical Research, and the Development of Early English Criminal Law" (typescript)

Part 1 - Overview: Developments in the Criminal Law and Historiography**Lecture 3. Eighteenth Century England**

Please read for this class from the coursepack:

- Hay, "Property, Authority and the Criminal Law"
- Langbein, "Albion's Fatal Flaws"

Lecture 4. Nineteenth Century England: The Great Transformation - Reform or More Efficient Repression?

Please read for this class from the coursepack:

- McGowan, "The Images of Justice and Reform in the Criminal Law in Early Nineteenth Century England"

NB. Set essay topics and the required conditions for custom topics made available at this class

Lecture 5. The Reception of English Criminal Law in Canada

Please read for this class from the coursepack:

- Hay, "The Meanings of the Criminal Law in Quebec, 1764-1774"
- Glavin, "The Nisga'a Treaty: Death of an Ideology (extracts)"
- Parker, "The Origins of the Canadian Criminal Code"

Part 2 - The Development of Criminal Law Institutions and Administration:**Lecture 6. Law Enforcement, the Rise of Police and Public Prosecutions**

Please read for this class from the coursepack:

- Storch, "The Plague of Blue Locusts"
- Wright, "A Note on Law Enforcement and Prosecutions"(typescript)
- Macleod, "Canadianizing the West: The North West Mounted Police"

as Agents of National Policy"

- Hay, "Controlling the English Prosecutor"

Lecture 7. The Criminal Trial and Legal Personnel

Please read for this class from the coursepack:

- Langbein, "The Criminal Trial Before Lawyers"
- Beattie, "The Scales of Justice: Defence Counsel and the English Criminal Trial in the 18th and 19th Centuries"
- Thompson, "Subduing the Jury" (extracts)

Lecture 8. Punishment

Please read for this class from the coursepack:

- Ignatieff, "State, Civil Society, and Total Institutions: A Critique of Recent Social History of Punishment"
- Taylor, "The Kingston, Ontario Penitentiary and Moral Architecture"

Part 3 - Selected Issues in Criminal Law History

Lecture 9 Conquest and the Experience of Native Peoples in Canada

Please read for this class from the coursepack:

- Loo, "The Road from Bute Inlet"
- Schuh, "Justice on the Northern Frontier: Early Murder Trials of Native Accused"

NB. Essays due 12 November

Lecture 10 The Experiences of Women

Please read for this class from the coursepack:

- Gavigan, "Petit Treason in 18th Century England"
- Backhouse, "Sayer Street Outrage,"
- Backhouse, Petticoats and Prejudice (extracts)
- Backhouse, "Prosecution of Abortions under Canadian Law"

Lecture 11 Politics and the Rule of Law in Canada

Please read for this class from the coursepack:

- Marquis, "Doing Justice to British Justice"
- McNaught, "Political Trials and the Canadian Political Tradition"

Lecture 12 Examination Review